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Report of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action on its fifteenth session

Note by the Secretariat

The Secretariat has the honour to transmit the report of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action on its fifteenth session from 9 to 20 October 2017. The report was prepared pursuant to Council resolution 34/34.

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Report of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action on its fifteenth session

I. Introduction

1. The present report is submitted by the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action in accordance with Human Rights Council resolution 34/34.

II. Organization of the session

2. The Working Group held its fifteenth session from 9 to 20 October 2017. Participants discussed and shared views on the state of racial discrimination worldwide and measures to enhance the effectiveness of the follow-up mechanisms to the Durban Declaration and Programme of Action and to ensure better synergies in the work of those mechanisms. The Working Group reviewed the progress achieved in the implementation of the programme of activities of the International Decade for People of African Descent and on the implementation of recommendations adopted at its previous session. The Working Group exchanges and discusses good practices on measures undertaken to promote societies that are more inclusive: training and awareness-raising for law enforcement officials and the judiciary; monitoring and investigation hate speech and hate crime; and protection of migrants and refugees against racism, racial discrimination, xenophobia and related intolerance.

A. Attendance

3. The session was attended by representatives of States Members of the United Nations, observers from non-Member States and by intergovernmental and non-governmental organizations (NGOs).

4. Under items 5 and 6 of the programme of work, presentations were made by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mutuma Ruteere, independent eminent expert, Edna Santos Roland, and the Chair of the Committee on the Elimination of Racial Discrimination, Anastasia Crickley. Under item 7, presentations were made by the Chair of the Working Group of Experts on People of African Descent, Sabelo Gumedze, and by Ms. Santos Roland. Civil society representatives from Switzerland (Celeste Ugochukwu and Awa Balla Ndiaye), Germany (Elisabeth Kaneza) and the Netherlands (Barryl Biekman) also presented interventions under item 7.

5. Under item 9, presentations were made by the Permanent Representative of Singapore to the United Nations Office and other international organizations in Geneva, Foo Kok Jwee; the Mayor of the City of Birmingham, Alabama, United States of America, William Bell; Margarita Maria Castilla Peon of the technical secretariat of the Mexico City Council to Prevent and Eliminate Discrimination; the manager of the inclusion, protection and engagement unit of the International Federation of Red Cross and Red Crescent Societies, Amjad Saleem; the Secretary-General of the National Consultative Commission on Human Rights, France, Magali Lafourcade; and a representative of the National Institute against Discrimination, Xenophobia and Racism, Argentina, Agustin Analian.

6. Under items 10 and 11, presentations were made by the Director of the Thurgood Marshall Civil Rights Centre, Washington D.C., and Associate Professor of Law, Justin Handsford; former member of the Committee on the Elimination of Racial Discrimination, Patrick Thornberry; Christel Mercadé, legal/policy officer, fundamental rights and rule of law unit (European Commission); Denis Roth-Fichet, senior lawyer, European Commission against Racism and Intolerance; and Mireya Del Pino Pacheco, Director of Studies and

Public Policies, National Council to Prevent Discrimination, Mexico, the Head of the International Migration Law Unit at the International Organization for Migration (IOM), Kristina Touzenis, and the Professor of International Migration at Coventry University, United Kingdom of Great Britain and Northern Ireland, Heaven Crawley.

B. Opening of the session and election of the Chair-Rapporteur

7. The Permanent Representative of Sierra Leone to the United Nations Office and other international organizations in Geneva, Yvette Stevens, was elected Chair-Rapporteur.

III. Discussion of the state of racial discrimination worldwide

8. Mr. Ruteere discussed some of the main issues he had been working on as the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. He emphasized that in today's counter-terrorism context, the world was witnessing a global rise in anti-immigrant and more specifically anti-Muslim rhetoric.

9. Mr. Ruteere had presented a report to the Human Rights Council on the resurgence of xenophobia in the wake of increased immigration and had noted that the issue had not received the attention it deserved. He had further noted that racial profiling by law enforcement officials was widespread and that it acted as a constant reminder of the normalization of racism and xenophobia.

10. He had also raised his concern about the prevalence of racism at sporting events and racial hostility in sports clubs. He had noted that new information technologies were being increasingly exploited to disseminate messages of racial and religious hatred, but argued that the Internet and social media should instead be harnessed as tools for more inclusive speech and global solidarity.

11. Ms. Santos Roland stated that the world was witnessing a rising tide in the manifestations of racism. She noted that a lack of information on and awareness of racial discrimination in the Latin American region often resulted in a lack of recognition of the problem. She also noted the lack of representation of people of African descent in positions of power, especially in the judiciary, and that affirmative action policies were needed in order to achieve equal educational and labour attainment.

12. In addition, Latin America had recently seen the scourge of xenophobia as a result of an increasing flow of migrants. That hatred towards people of other countries was made worse by declining local economies and rising rates of unemployment, which increased fear amongst the population. That had further resulted in the dissemination of ideas based on racial superiority and hatred that had not been addressed effectively, as a consequence of services not having the effective skills to do so.

13. Ms. Crickley drew attention to the great importance of the intersectionality between racism and gender oppression. She emphasized that people who experienced racism were not all the same and that they most likely suffered from multiple and aggravated forms of discrimination, compounded by factors such as gender identity and disability.

14. Ms. Crickley noted the danger of renaming racial discrimination as just another form of oppression. She stressed that xenophobia was the chief cause of racism against migrants and refugees and emphasized that fear of people who looked different did not justify denying them their human rights.

15. In terms of the issues with which the Committee on the Elimination of Racial Discrimination had recently been struggling, Ms. Crickley highlighted the denial by Member States of racial profiling by their law enforcement officials; anti-Muslim discrimination; racism experienced by migrants and refugees, particularly in the context of their right to work; and the intersection between racism and gender oppression, specifically with reference to the employment rights of domestic workers.

16. The representative of the European Union stated that racism was on the rise and that it negatively affected equality, freedom and justice. She emphasized that prevention was

key and that it was important to sensitize the younger generation to racial discrimination and the need for tolerance and inclusion.

17. The representative of South Africa stated that a lot of work remained to be done to address racism and called on States to embrace the Durban Declaration and Programme of Action.

IV. Discussion on the measures to be taken to enhance the effectiveness of the follow-up mechanisms to the Durban Declaration and Programme of Action and to ensure better synergy and complementarities in the work of these mechanisms, in line with article 124 of the Outcome Document of the Durban Review Conference

18. The Working Group invited the group of independent eminent experts to participate in its fifteenth session with a view to ensuring the effective participation and optimal utilization of its mandate. The Working Group and the members of group of the independent eminent experts discussed the function and mandate of the group and the way in which the two mechanisms could work effectively together.

19. Ms. Crickley outlined the approach taken by the Committee on the Elimination of Racial Discrimination to ensure better synergies and complementarities regarding the Durban mechanisms. The Committee on the Elimination of Racial Discrimination favoured a direct engagement on an annual basis with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and attempts to work together on common issues.

20. She noted that the meeting of the Chairs of the human rights treaty bodies, created with the purpose of ensuring complementarity, had been particularly useful in providing space for discussions between groups, and that complementarity, both horizontally and vertically, should be seen as a way of reinforcing the mechanisms within the United Nations system.

21. Ms. Santos Roland reminded participants that the Durban Declaration and Programme of Action gave a mandate to the group of independent eminent experts to follow up on its implementation. The group was composed of five experts who worked independently in their personal capacity and were responsible for following up on the Durban Declaration and Programme of Action in their respective regions.

22. The Working Group, however, had a specific mandate to receive all information regarding the implementation of the Durban Declaration and Programme of Action, by allowing discussions in which Member States were able to share their experience of implementation.

23. The representative of Zimbabwe, on behalf of the Chair-Rapporteur of the Ad Hoc Committee on the Elaboration of Complementary Standards to the International Convention on the Elimination of All Forms of Racial Discrimination, shared his support for the imperative need for closer cooperation between the three Durban follow-up mechanisms. He also informed participants of the decision of the Human Rights Council to implement the request of the General Assembly, contained in its resolution 71/181, addressed to the Chair-Rapporteur of the Ad Hoc Committee, to ensure the commencement of negotiations on the draft additional protocol to the Convention criminalizing acts of a racist and xenophobic nature during the tenth session of the Ad Hoc Committee. He also highlighted paragraph 5 of resolution 71/181, in which the General Assembly had expressed its concern at the lack of progress in the elaboration of complementary standards to the Convention.

V. Review of the progress achieved concerning the programme of activities for the implementation of the International Decade for People of African Descent

24. The Chair of the Working Group of Experts on People of African Descent opened the session by stating that bias against people of African descent continued to this day and that racism was still very prevalent. He noted his deep concern for the multiple and intersecting forms of discrimination from which people of African descent suffered, based on their race, ethnicity, gender, class, language, culture, religion, minority and migration status and other related grounds. He further raised concern about the lack of accountability for acts of violence and other human rights violations against people of African descent. He stressed that structural racism and discrimination were widespread in the administration of justice and that people of African descent were particularly vulnerable to racial profiling as well as generally overrepresented in the criminal justice system.

25. Ms. Santos Roland noted that in the Latin American and Caribbean region important advances had been made in the implementation of policies that sought to combat racism and promote equality. Several States in the region had also adopted national action plans and other legislative measures to combat racism and racial discrimination. Monitoring bodies had been put in place to check progress on the achievement of equality, and education and awareness-raising were being employed to sensitize the population to the harm done by racial discrimination.

26. She reiterated the importance of data collection and emphasized that without information and data it was not possible to give adequate recognition to people of African descent or to address the discrimination they faced.

27. The representative of Brazil noted that the date for the next national conference on racial discrimination in Brazil had been set and that its theme would echo the International Decade for People of African Descent by focusing on recognition, justice, development, equality and human rights. She noted that Brazil had instituted normative and institutional changes to foster the participation of Afro-Brazilians in public, economic and political life.

28. The representative of South Africa voiced an urgent call for action. It stated that the plight of people of African descent was deteriorating and that all States should therefore remain committed to the International Decade and to the overarching aim of the 2030 Agenda for Sustainable Development to leave no one behind.

29. The representative of Cuba noted that Cuba was implementing many activities to foster the greater participation of people of African descent and to give greater visibility to projects aimed at recovering their history. It had hosted media events and cinema screenings to promote the heritage of people of African descent and to overcome prejudice against and stereotyping of them.

30. The representative of the European Union noted the remarkable recognition of the reality of people of African descent, specifically the denial of their basic human rights. She called for the full and effective implementation of international mechanisms such as the International Convention on the Elimination of All Forms of Racial Discrimination and the Durban Declaration and Programme of Action. She noted that the Durban Programme of Action emphasized the need to strengthen national action.

31. During the discussion on the implementation of the International Decade for People of African Descent through multi-stakeholder cooperation, Mr. Ugochukwu noted that a number of studies involving multiple stakeholders had been conducted on the state of anti-black racism in Switzerland. One of the studies had mapped the traces of the transatlantic slave trade and colonialism in Switzerland.

32. Ms. Kaneza firstly noted that Germany did not have a far-reaching or rich history when it came to people of African descent. They therefore remained a largely invisible minority in the country. Similar to the experience of people of African descent in other countries, in Germany they were also disproportionately victims of racism and racial discrimination, police profiling and police brutality. Women of African descent were even

more discriminated against, given that their gender acted as an additional and aggravating basis for discrimination.

33. Ms. Kaneza further noted that the launch of the Decade in Germany had led to a multi-stakeholder approach to address racism in the country. She noted that the Federal Anti-Discrimination Agency had participated in the launch of the Decade and that the German Institute for Human Rights continued to help monitor the situation of people of African descent.

34. Ms. Biekman reiterated that the effects of the transatlantic slave trade and slavery continued to manifest themselves today. She noted that colonialism had resulted in racism and that Africans and people of African descent continued to be the victims of its consequences, including social and economic inequality. She reiterated the need for the full and effective implementation of the Durban Declaration and Programme of Action.

35. Ms. Biekman stated that civil society organizations were a significant actor in the combat against racism and discrimination against people of African descent. She emphasized the need for civil society organizations to be well organized and to communicate clearly with Governments.

36. Ms. Ndiaye reiterated the importance of the Durban Declaration and Programme of Action in making it possible to understand the history of racism and providing possible solutions to the multifaceted problem. She made reference to paragraph 158 of the Durban Programme of Action, in which the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance had called for the facilitation of the welcomed return and resettlement of the descendants of enslaved Africans, stating that people of African descent should be granted the right and opportunity to return to a country of their choice on the continent and granted citizenship.

37. In the ensuing discussion, the representative of the European Union, supported by Germany, reiterated that civil society organizations were the driving force behind the implementation of the Decade and a key actor for change. She also reiterated the importance of portraying people of African descent in a positive light.

38. The representative of the United States reaffirmed the country's efforts to guide the implementation of the International Decade for People of African Descent and its commitment to promoting the enjoyment of human rights, racial equality, religious freedom and social inclusion for people of African descent, both domestically and internationally. The representative highlighted the support of the United States for cultural educational initiatives and shared the most recent developments on promoting African-American culture.

VI. Review of the progress achieved concerning the implementation of recommendations adopted by the Working Group at its previous session

39. The representative of the European Union stressed that the recommendations of the Working Group should be an end in themselves and that the low rate of feedback from Member States deserved reflection. She suggested that the reasons as to why there was such a low rate of feedback could relate to the number of recommendations or to whether they were sufficiently action-orientated.

40. She reminded participants of paragraph 61 (b) of the report on the fourteenth session of the Working Group, in which it had requested that the necessary arrangements be made to ensure that there was sufficient time between its sessions and those of the Human Rights Council to allow for better preparation and to ensure optimal participation.

41. The representative of Brazil noted that a review of the implementation of recommendations could be seen as a cross-cutting challenge to the Working Group. She suggested that the review should take place at the end of the session after all the thematic issues had been discussed.

VII. Exchange and discussion on good practices in combating racism

A. Discussion on measures undertaken to promote more inclusive societies

42. The Mayor of Birmingham, Alabama, noted that his city was the centre of the civil and human rights movement in the United States, which had led to many legislative and practical changes to combat racial, gender and religious discrimination. He noted that a lot of progress had since been achieved but that this progress was placed in jeopardy by rising levels of racial and religious intolerance in the United States and all around the world.

43. Mr. Bell noted that the police were infamous for their discriminatory practices and that police officers in Birmingham, Alabama, were therefore provided with cultural training to sensitize them to cultural differences in order to prevent bias.

44. The Permanent Representative of Singapore to the United Nations Office and other international organizations in Geneva stated that although Singapore was a small country with only 5.6 million inhabitants, it was one of the most religiously, racially and culturally diverse countries in the world. Independence had been thrust upon the State in 1965, at which point it had been decided that no group of people would be favoured or disadvantaged and that everyone would share the same national identity.

45. As part of the country's ethnic integration policy, 80 per cent of the population lived in public housing, with each public housing estate mirroring the ethnic make-up of the State. Each estate also hosted community facilities and spaces, which helped to build harmonious communities.

46. Mr. Foo further underscored that Singapore took a firm stance against racist, religious and chauvinist hatred and that it had passed and implemented various acts to deter religious and racial strife.

47. Mr. Foo reiterated the importance of nurturing racial ties, of engaging different religious leaders in discussion, and of organizing events where different groups could come together to discuss problems and come up with solutions for resolving them.

48. Benedetto Zacchiroli, President of the European Coalition of Cities against Racism, stated that his organization was a regional network of 128 cities under the umbrella of the International Coalition of Inclusive and Sustainable Cities of the United Nations Educational, Scientific and Cultural Organization (UNESCO).

49. He noted that by signing the 10-point plan of the European Coalition, mayors of those cities had committed themselves to monitoring racism in their cities and to actively combating racial discrimination. He further noted that the fight against racism in European cities was a synergistic action between multiple stakeholders, including civil society organizations, universities, the media, the private sector and opinion leaders.

50. Ms. Castilla Peon focused on the way in which local governments and cities were involved in eliminating racism. The Council had for instance collected statistical data on people's perceptions of racism which showed that people in Mexico were not used to thinking about race as a ground for discrimination and were hence ashamed to report it. In response, the efforts of the Mexico City Council to Prevent Discrimination had been aimed at promoting the social acceptance of racism through publicity and awareness-raising in the media. It had also promoted multilingualism by translating laws and procedures into languages spoken by minorities. Mexico City had also recently adopted a new constitution, which, for the first time, made reference to the concepts of Afrodescendants, Islamophobia and anti-Semitism. The Council had also worked closely with civil society organizations to allow people of African descent to maintain their cultural practices and fight for social recognition and political participation.

51. Mr. Saleem stated that the national societies of the Red Cross and the Red Crescent played a prominent role in putting thoughts about social inclusion into action. He noted that combating discrimination was high on the agenda of the International Federation of Red

Cross and Red Crescent Societies and that its third strategic aim was to promote social inclusion and a culture of non-violence and peace. He noted that the Federation provided long-term services to ensure social inclusion, non-discrimination and respect for diversity.

52. Mr. Saleem pointed to a number of examples where the Federation was engaged with local communities in building inclusive societies, such as in Finland where it had launched an anti-racism campaign in schools and developed the refugee buddy system whereby young people were encouraged to understand better the realities of life for migrants and refugees. Mr. Saleem underscored the importance of engaging young people as agents of behavioural change.

B. Training and awareness-raising for law enforcement officials and the judiciary

53. The Secretary-General of the National Consultative Commission on Human Rights in France delivered her presentation on the training and awareness-raising practices used by the Commission to combat racism, and outlined several of the shortfalls and successes of those practices in France. She highlighted the importance of training in combating racism through a number of examples of French public policy in that regard.

54. Ms. Lafourcade welcomed efforts to diversify the support provided for training practices, such as thematic and practical workshops, training online and the dissemination of information by leaflets. However, she outlined a number of issues where there should be improvement. They included the constant updating of training practices and regular evaluation in order to check the efficiency of the training. Another important aspect she highlighted was the provision of training practices at the National School for the Judiciary for judges, prosecutors, clerks, police officers, police commissioners, prison governors and administrators of the National Assembly and the Senate.

55. Mr. Analian presented the activities undertaken by the Argentinian National Institute against Discrimination, Xenophobia and Racism on capacity-building and awareness-raising for the security forces and the judiciary. He noted that the Argentinian colonial past had fostered xenophobia and racism towards Africans, African descendants and people of Asian and indigenous origin, and that xenophobia also targeted specific socioeconomic groups in Argentina, such as migrants and asylum seekers from neighbouring countries.

56. He noted that the training provided by the Institute aimed to promote respect, the observance and development of anti-discriminatory practices, the protection of victims of discrimination, xenophobia and racism, and the implementation of a public policy which fostered inclusion and equality.

57. The representative of the European Union outlined the activities undertaken in this field, notably in engaging support for member States in developing a human rights-based approach to policy, policing and security. She also stressed that the European Union continued to support the work of relevant European Union agencies and referred to European Union legislation relevant to border management.

58. The representative of South Africa stated that the judiciary system needed to be effective and based on a set of values that protected human rights.

VIII. Monitoring and investigation of hate speech and hate crime

59. Mr. Thornberry noted that in its general recommendation No. 35 (2013) on combating racist hate speech, the Committee on the Elimination of Racial Discrimination had sought to contribute to the promotion of understanding, lasting peace and security among communities, peoples and States, bearing in mind that the prevalence of racist hate speech continued to represent a significant contemporary challenge. He noted that article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination required States parties to declare as offences punishable by law all dissemination of ideas based on racial superiority and hatred, as well as incitement to racial discrimination or

violence and assistance to racist activities. Member States were also mandated to declare racist organizations illegal and prohibit the formation of such organizations.

60. On the qualification of dissemination and incitement as offences punishable by law, the Committee had agreed that the following contextual factors should be taken into account: the content and form of speech; the economic, social and political climate prevalent at the time the speech was made and disseminated; the position or status of the speaker in society and the audience to which the speech was directed; the reach of the speech; and the objectives of the speech.

61. Finally, Mr. Thornberry recalled article 7 of the Convention, in which the positive contribution of teaching, education, culture and information to combat racist hate speech was asserted.

62. Ms. Mercadé focused on the efforts of the European Union in combating hate speech online. She noted that the European Union framework decision on combating certain forms and expressions of racism and xenophobia by means of criminal law criminalized hate speech and hate crime in all member States and that the European Commission had the role of aiding national authorities to effectively implement European Union legislation to combat racism and xenophobia.

63. Ms. Mercadé also noted that the European Union had held its first annual colloquium on fundamental human rights in 2015, at which the focus had been on preventing and combating anti-Semitic and anti-Muslim hatred in Europe. One of the main conclusions of the colloquium had been that the dissemination of hate speech on the Internet and social media had become an increasing concern and that the fight against hate speech required the cooperation of information technology (IT) companies, civil society and the media. As a result, the European Commission had started a dialogue with four major IT companies, namely Facebook, Twitter, YouTube and Microsoft, together with member States and civil society organizations, which in 2016 had led to the adoption of a code of conduct on countering illegal hate speech online.

64. Ms. Mercadé explained that the code of conduct was a set of voluntary commitments for IT companies, which requested that they first of all assess, within a period of 24 hours, the content they had received from users and trusted flaggers, according to national and European Union law on hate speech, and remove that content if necessary. They should also dedicate enough resources to establish a sufficiently large network of trusted flaggers (i.e. specialist NGOs that used special channels to report hate speech) to increase the speed at which content was assessed.

65. Mr. Roth-Fichet, referred to general recommendation No. 15 (1993) on article 4 of the Convention of the Committee on the Elimination of Racial Discrimination, which focused on how to combat hate speech effectively. The European Commission against Racism and Intolerance regarded hate speech as an extreme form of intolerance, which, if unaddressed, could be the precursor to violent hate crimes. Since 2013, therefore, the Commission had focused its attention on hate speech.

66. He stressed that general recommendation No. 15 did not infringe on the right of freedom of opinion or expression but that conversely, it reaffirmed the fundamental importance of freedom of speech, tolerance and respect for the equal dignity of all human beings and for a democratic and pluralistic society. In recommendation No. 15, the Committee noted that freedom of expression and opinion was not an unqualified right and that it must not be exercised in a manner inconsistent with the rights of others.

67. Mr. Roth-Fichet noted that in general recommendation No. 15 the Committee had proposed that Member States raise awareness of the dangers of hate speech by, for example, developing specific educational programmes.

68. Ms. Del Pino Pacheco acknowledged that intersectionality was a challenge for all States, in particular in constructing specific responses, which comprehensively met that challenge. She called on Member States to adopt policies and programmes which would combat the incitement to hate speech or to racist hatred, both through public initiatives or the media, in particular on the Internet.

69. She stated that the best response to hate speech was through the implementation of an effective legal system. She stressed the importance of having more preventive and educational tools, including education, to promote understanding, combat negative stereotypes and discrimination, and undertake information campaigns and the collection and analysis of statistical data.

70. Mr. Handsford noted that the discussion in the Working Group could not be more timely from the perspective of the United States, where recent debates, protest and tragedies had called into question the country's current practices on freedom of speech, hate speech and hate crime regulation.

71. He reminded Member States that t e Durban Declaration and Programme of Action called on States to consider a prompt and coordinated international response to the rapidly evolving phenomenon of the dissemination of hate speech and racist material through the new information and communications technologies, including the Internet, and to strengthen international cooperation in response. He referred to the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, which showed that with the development of technology, hate speech and hate sites had grown in both number and sophistication, and extremist groups had found the Internet to be a very useful tool for recruiting new members.

72. Mr. Handsford made several recommendations, including that efforts to engage in the debate over the removal of racist symbolism and monuments should be supported and those symbols replaced by art, education and monuments of historic men and women who had promoted the cause of human dignity and racial justice. He also encouraged participants to engage in the debate around hate speech on social media.

73. The representative of the European Union reiterated the importance of having a criminal framework around hate speech but stated that criminalization was not sufficient to combat hate speech and crimes. She also reiterated the importance of making alliances with civil society and the media, and of recognizing and addressing intersectional discrimination.

74. The representative of Brazil noted that racist hate speech undermined freedom of expression and called on Member States to be aware of the debate on hate speech and freedom of expression. She stated that Brazil had a punitive and preventative approach to racially motivated crimes. With regard to online hate speech, Brazil dealt with such offences in its legislation and also criminalized those who were complicit by sharing hate speech content online.

75. The representative of South Africa noted that hate speech was one of the most complicated and unregarded topics, and that it had the potential to undermine the democratic fabric of society. The representative explained that in early 2016, a series of hate speech and hate crime incidents had taken place in South Africa. That had led to a public outcry over racism, which had been the catalyst for the finalization of the bill on the prevention and combating of hate crimes and hate speech. He explained that the bill had sent a clear message to the public that hate speech and hate crimes would not be tolerated in South Africa.

IX. Migrants and refugees: examples of good practices in protection against racism, racial discrimination, xenophobia and related intolerance

76. Ms. Touzenis gave an overview of the international legal framework relating to human rights and refugees, and of the challenges faced by migrants regarding discriminatory practices. She stressed that international human rights were inalienable and not dependent on the geographical location of a person, and insisted that there should be a focus on the discourse around migrants and migration in order to make sure that the public understood migrants' rights and the importance of respect for human rights.

77. Ms. Touzenis outlined the importance of granting labour rights to migrants and refugees, with a view to stopping exploitation and the imposition of unfair working

conditions on groups of workers who, without any labour rights, could become even more marginalized and more vulnerable to discrimination. She also stressed the need for more initiatives for social inclusion, in particular at the level of local government, as social inclusion created less tension in society, more participation and less discrimination. Ms. Touzenis concluded with a reference to the global compact on refugees, noting that it should be based firmly on existing international legal standards and contain certain goals grounded on indicators formed by international standards.

78. Ms. Crawley provided an overview of the key challenges faced by migrants and refugees in society. She noted that the discussion around migrants and refugees had become politically toxic in the United Kingdom and migrants and refugees had become stigmatized to a greater extent than before.

79. Ms. Crawley raised the issue of the way in which opinion polls around migrant-related questions were conducted. She noted that the role of the media was particularly crucial, as it was often the principle source of anti-migrant messages and of negative attitudes towards migrants and refugees. She stressed that the economic and social consequences of migration were not the fault of migrants and refugees themselves, but in fact a failure by the Government to implement policies created to address the issue effectively.

80. Mr. Saleem presented an overview of all the initiatives undertaken by the International Federation of Red Cross and Red Crescent Societies and by all the participating national societies of the Federation. He noted that the Federation initiative "Strategy 2020" aimed to identify the structural and cultural causes of the social exclusion of migrants and refugees and factors of difference or "diversity". He stressed the importance of removing inequality through improved social inclusion and making society more inclusive as a means of providing equal opportunities, resources and rights to migrants, and easing their adjustment to a new more inclusive society.

81. Mr. Saleem gave several examples of programmes set up to support equal opportunities for migrants and refugees, such as through peer support, volunteering and cultural activities. Such programmes aimed to provide access to labour markets for migrants and others, supporting migrant students and children, raising public awareness, starting school-based initiatives with the participation of host communities and bringing people together through community engagement and sports.

82. The representative of the European Union stated that in the light of the current international refugee and migration crisis, the framing of a racial discrimination discourse in the context of migration was highly pertinent. She emphasized that the European Union remained deeply concerned by the level of discriminatory practices and xenophobic narratives that portrayed refugees and migrants as a threat to national security and that it condemned all kinds of discriminatory and disproportionate counter-terrorism measures.

83. The representative of South Africa commended the New York Declaration for Refugees and Migrants, which recognized the reality of migration and reflected the need for greater international cooperation, solidarity, and equitable responsibility for hosting and supporting forcibly displaced persons.

X. Conclusions and recommendations

A. Discussion on the state of racial discrimination worldwide

Conclusions

84. **The Working Group:**

(a) **Reaffirms its commitment to the full and effective implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, the Durban Declaration and Programme of Action, the Outcome Document of the Durban Review Conference and the political declaration of the high-level meeting of the General Assembly to commemorate the tenth anniversary of the adoption of the**

Durban Declaration and Programme of Action. It also reaffirms the fundamental importance of accession to or ratification of the International Convention on the Elimination of All Forms of Racial Discrimination;

(b) Notes with deep concern that manifestations of racism, racial discrimination, xenophobia and related intolerance have been increasing all over the world and points out that efforts to combat their spread should be enhanced at international, regional, national and local levels;

(c) Recognizes that victims of racism, racial discrimination, xenophobia and related intolerance can suffer multiple, aggravated or intersecting forms of discrimination based on other related grounds, such as age, sex, language, religion, political or other opinion, social origin, property, disability, birth or other status;

(d) Recognizes that many contemporary forms of racism, racial discrimination, xenophobia and related intolerance are related to the legacy of slavery and colonialism, and that the effects and persistence of those structures and practices continue to be among the factors contributing to lasting social, economic and political inequalities in many parts of the world today;

(e) Expresses deep concern that indicators in the fields of education, employment, health, housing, imprisonment, participation in all aspects of society, infant mortality and life expectancy continue to show a situation of disadvantage for many groups worldwide, and recognizes that racism, racial discrimination, xenophobia and related intolerance is one of the contributing factors to those inequalities;

(f) Expresses deep concern about the rise of extremist political parties, movements and groups that seek to normalize racism and discrimination, and invites Member States to develop targeted policies and measures to counter those parties, movements and groups.

Recommendations

85. The Working Group recommends that Member States:

(a) Fully and effectively implement their obligations arising under international law, particularly the non-discrimination clauses in the Charter of the United Nations; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Elimination of All Forms of Racial Discrimination. Those States that have not yet done so are urged to consider ratifying those two Covenants and the Convention;

(b) Establish mechanisms, as appropriate, to follow up and implement recommendations on racism, racial discrimination, xenophobia and related intolerance, including those relating to people of African descent emanating from international mechanisms, such as the Committee on the Elimination of Racial Discrimination and other treaty bodies, special procedures mandate holders, the universal periodic review and relevant regional mechanisms;

(c) Cooperate fully and respond positively to requests for country visits by the Working Group of Experts on People of African Descent and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, and other human rights mechanisms working on issues related to racism, racial discrimination, xenophobia and related intolerance;

(d) Establish national legislative frameworks and national action plans against racism, racial discrimination, xenophobia and related intolerance, in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination, if they have not already done so;

(e) Establish or strengthen, as appropriate, and equip specialized bodies and mechanisms for the implementation of public policies to eradicate racism, racial discrimination, xenophobia and related intolerance, and promote racial equality with

suitable financial resources and the capability and capacity to survey, investigate, educate and undertake public awareness-raising activities in line with the Durban Declaration and Programme of Action, and the Outcome Document of the Durban Review Conference;

(f) Collect, compile, analyse, disseminate and publish reliable statistical data at the national and local levels, and undertake all other related measures that are necessary to assess regularly the situation of individuals and groups who are victims of racism, racial discrimination, xenophobia and related intolerance. Such statistical data should be disaggregated in accordance with national legislation. Any such information shall, as appropriate, be collected with the explicit consent of the victims based on their self-identification and in accordance with provisions on human rights and fundamental freedoms, such as data protection regulations and privacy guarantees. That information must not be misused;

(g) Take effective action to address the root causes of racial discrimination, notably acknowledging the legacy of slavery and colonialism and its implications for contemporary forms of economic, social, political and cultural inequalities and discrimination. In that regard, Member States should develop and support activities aimed at promoting greater knowledge of, and respect for, the culture, history and heritage of affected groups;

(h) Implement educational activities and measures, including human rights training at various levels and in different sectors, to raise awareness of the scourge of racism, racial discrimination, xenophobia and related intolerance, and prevent and combat effectively their occurrence;

(i) Take positive measures, if they have not already done so, to eliminate the conditions that cause or contribute to the perpetuation of racial discrimination against, and exclusion of, affected groups in all spheres of public life, including the adoption of affirmative action, where it is in accordance with national law, in the Member States in which they live, and pay particular attention to multiple, aggravated or intersecting forms of discrimination;

(j) Pay specific attention to the situation of victims of racism, racial discrimination, xenophobia and related intolerance while implementing the United Nations 2030 Agenda for Sustainable Development, with a view to creating better living conditions for the most marginalized and ensuring that no one is left behind;

(k) Develop a comprehensive approach to counter violent manifestations of racism, racial discrimination, xenophobia and related intolerance, including by extremist political parties, movements and groups, through solid legal frameworks, complemented by other measures such as education and awareness-raising programmes and a victim-centred approach.

86. The Working Group recommends that:

(a) States parties that have not yet done so, consider making a declaration under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination on the recognition of the competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation;

(b) Governments ensure that textbooks and other educational materials accurately reflect historical facts, as they relate to past tragedies and atrocities, so as to avoid stereotypes and distortion or falsification of historical facts, which may lead to racism, racial discrimination, xenophobia and related intolerance;

(c) The United Nations High Commissioner for Human Rights take measures in accordance with paragraph 193 of the Durban Programme of Action for the appointment and designation of good will ambassadors in all countries of the world in order, inter alia, to promote respect for human rights and a culture of

tolerance and to increase the level of awareness of the scourge of racism, racial discrimination, xenophobia and related intolerance.

B. Measures to be taken to enhance the effectiveness of the follow-up mechanisms to the Durban Declaration and Programme of Action and to ensure better synergy and complementarities in the work of those mechanisms, in line with article 124 of the Outcome Document of the Durban Review Conference

Conclusions

87. The Working Group:

(a) Recognizes the importance of the continued efforts aimed at improving the efficiency and effectiveness of the Durban follow-up mechanisms and commits to increasing efforts aimed at avoiding overlapping and/or duplication of initiatives;

(b) Notes that one of the follow-up mechanisms, the group of independent eminent experts, has not been fully operational, owing to the lack of three experts, and requests that steps be taken to expedite the appointment of those experts.

Recommendations

88. The Working Group recommends that:

The Durban follow-up mechanisms, together with the treaty monitoring bodies and special procedures mandate holders, discuss key issues of common interest. In that regard, the Working Group requests the Office of the United Nations High Commission for Human Rights (OHCHR) to explore the possibility of organizing consultations, during the annual meeting of the Chairs of the human rights treaty bodies, between the Chairs of the Durban follow-up mechanisms and the Chairs of the human rights treaty bodies, with the aim of developing synergies and complementarities between those mechanisms.

C. Review of the progress achieved concerning the programme of activities for the implementation of the International Decade for People of African Descent

Conclusions

89. The Working Group:

(a) Recognizes that people of African descent have historically been, and continue to be, specific victims of human rights violations;

(b) Recognizes that structural racism and discrimination occur at all stages and levels of the administration of justice, including in legislation, law enforcement, courts and tribunals, and detention facilities, leaving people of African descent vulnerable to social and racial profiling and resulting in their overrepresentation in the criminal justice system;

(c) Recognizes the crucial role of civil society organizations, local governments and municipalities in implementing the programme of activities for the International Decade for People of African Descent, in promoting human rights education and raising awareness of racism, racial discrimination, xenophobia and related intolerance, and the importance of close cooperation between civil society and Governments;

(d) Takes note of Human Rights Council resolution 35/30, in which the Council requested the Working Group to include in the programme of work for its sixteenth session a one-day meeting to consider the elaboration of a draft United Nations declaration on the promotion and full respect of human rights of people of

African descent. In that regard, the Working Group encourages States to engage in national and regional consultations with a view to preparing for the aforementioned session;

(c) Takes note of Human Rights Council resolution 34/33 on the establishment of a forum of people of African descent, in accordance with the recommendation contained in paragraph 29 (i) of the programme of activities for the implementation of the International Decade for People of African Descent

Recommendations

90. The Working Group recommends that Member States:

(a) Develop national policies and mechanisms for people of African descent in line with the Durban Declaration and Programme of Action and the programme of activities for the implementation of the International Decade for People of African Descent. In that regard, the Working Group urges Member States, as appropriate, to revise their legislation and/or repeal discriminatory effects therein and adopt public policies aimed at promoting and protecting all human rights of people of African descent, notably by recognizing the multiple forms of discrimination faced by people of African descent;

(b) Develop and reinforce their cooperation with, and support to, civil society organizations that work towards eliminating racism, racial discrimination, xenophobia and related intolerance, and implement the programme of activities for the International Decade for People of African Descent at the national, local and municipal levels.

D. Review of the progress achieved concerning the implementation of recommendations adopted by the Working Group at its previous session

Conclusions

91. The Working Group:

(a) Takes note of the report of the Secretary-General concerning the programme of activities for the implementation of the International Decade for People of African Descent (A/71/290) and of the contributions made by Member States with regard to their activities to combat racism, racial discrimination, xenophobia and other related intolerance and to the implementation of the recommendations adopted by the Working Group;

(b) Reaffirms the importance of assessing the level of implementation of its recommendations, sharing practices and discussing challenges and the way forward.

Recommendations

92. The Working Group recommends that:

(a) OHCHR make arrangements to ensure that there is sufficient time between the sessions of the Working Group and those of the Human Rights Council to allow for better preparation and to ensure optimal participation. In that regard, it requests OHCHR, after consultation with conference services at the United Nations Office at Geneva, to propose new dates for the next session of the Working Group;

(b) Member States report on their activities to combat racism, racial discrimination, xenophobia and related intolerance and their activities to implement the recommendations adopted by the Working Group during its previous session in preparation for the next session of the Working Group. In that regard, the Working Group requests that OHCHR, when inviting Member States and other stakeholders to contribute to the report of the Secretary-General on the theme of "A global call for action for the total elimination of racism, racial discrimination, xenophobia and

related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action", also invite them to provide information on the measures undertaken to implement the recommendations adopted by the Working Group at its previous session.

E. Discussion on measures undertaken to promote more inclusive societies

Conclusions

93. The Working Group:

(a) Welcomes the efforts and contributions made by Governments, municipalities and non-governmental actors for the promotion of more inclusive societies, and encourages the emulation of such initiatives;

(b) Takes note in that regard of the work undertaken by various cities, as well as networks of cities, against racism, and encourages the elaboration of codes of conduct and action plans, such as the 10-point action plan elaborated by the European Coalition of Cities against Racism;

(c) Recognizes that the equal participation of all individuals and groups in the building of just, equitable, democratic and inclusive societies contributes to a world free from racism, racial discrimination, xenophobia and related intolerance;

(d) Recognizes that the preservation and promotion of tolerance, pluralism and respect for diversity contribute to more inclusive societies;

(e) Recognizes the importance of dialogue and exchange between and within religious and cultural communities at national, regional or international levels as a forum for communication, discussion, networking and the learning and sharing of ideas and good practices to foster harmony, tolerance and coexistence in those communities.

Recommendations

94. The Working Group recommends that:

(a) Member States adopt and implement, at both the national and international levels, effective policies and measures, in addition to existing anti-discrimination national legislation and relevant international instruments and mechanisms, which encourage all individuals, institutions and civil society to take a stand against racism, racial discrimination, xenophobia and related intolerance, and to recognize, respect and maximize the benefits of diversity within and among all nations;

(b) Member States undertake public information and education programmes to raise awareness and understanding of the benefits of cultural diversity, including programmes where the public authorities work in partnership with international and non-governmental organizations, other sectors of civil society and the private sector;

(c) Members States explore ways of expanding the role of non-governmental organizations in promoting more inclusive societies;

(d) OHCHR and other relevant United Nations entities provide technical assistance to support Governments with regard to their efforts to combat racism, racial discrimination, xenophobia and related intolerance, at both the national and local levels, including in cities and municipalities.

F. Training and awareness-raising for law enforcement officials and the judiciary

Conclusions

95. **The Working Group:**

(a) **Expresses deep concern about cases of lack of accountability for acts of racial discrimination and violence, which result in the denial of the human rights of the victims of such acts and violence;**

(b) **Recognizes the challenges of ensuring that judges and law enforcement officials are aware of racially motivated offences and that they are able to identify the aggravating character of racist offences;**

(c) **Recognizes the importance of training the personnel of the judiciary, law enforcement officials and officers at the border and in detention facilities to prevent and fight racism, racial discrimination, xenophobia and related intolerance.**

Recommendations

96. **The Working Group recommends that:**

(a) **Member States combat impunity for acts of racism, racial discrimination, xenophobia and related intolerance, secure expeditious access to justice and provide fair and adequate redress for victims;**

(b) **Member States do not resort to profiling based on grounds of discrimination prohibited by international law, including on the grounds of race, colour, descent or national or ethnic origin, and that they prohibit it by law;**

(c) **Member States formulate and implement training programmes for law enforcement officials, immigration and border officials and members of the judiciary with a view to sensitizing them to racism, racial discrimination, xenophobia and related intolerance, and to developing the necessary skills for the identification, recording, investigation, prosecution and sanctioning of racist crimes, and for ensuring the fair and adequate treatment of victims;**

(d) **National human rights institutions and civil society organizations develop capacity-building, awareness-raising and training materials for law enforcement officials, members of the judiciary and relevant civil servants, with a view to preventing racism, racial discrimination, xenophobia and related intolerance in the enforcement of the law;**

(e) **In that regard, OHCHR use its capacity-building framework to develop anti-racist training tools for the use of the judiciary and law enforcement officials, building upon existing good practices.**

G. Monitoring and investigating hate speech and hate crimes

Conclusions

97. **The Working Group:**

(a) **Recognizes that the prevalence of racist and xenophobic hate speech in all regions of the world continues to represent a significant contemporary challenge for human rights;**

(b) **Expresses deep concern about the use of new information technologies, such as the Internet, for purposes contrary to respect for human dignity, equality, non-discrimination, respect for others and tolerance, including propagating racism, racial discrimination, xenophobia and related intolerance, and that, in particular, children and youth having access to such material could be negatively influenced by it;**

(c) **Recognizes that hate speech negatively affects and diminishes the enjoyment of freedom of expression;**

(d) **Recognizes that particular attention should be paid to women who continue to be the victims of multiple and intersecting forms of discrimination and hate speech;**

(e) **Recognizes that hate speech manifests itself in different forms and that owing to the compound nature of hate speech and hate crime, there continues to be a lack of statistical data, as well as underreporting, on the numbers of victims of hate speech or on the numbers of authors of hate speech;**

(f) **Acknowledges that victims of hate speech and hate crime are not always fully aware of how to assert their rights in administrative, civil or criminal procedures and that a lack of information on their rights prevents victims from reporting hate speech offences;**

(g) **Takes note of general recommendation No. 35 (2013) on combating racist hate speech of the Committee on the Elimination of Racial Discrimination, in particular paragraphs 13–15, which provide guidelines to Member States on the offences punishable by law and the qualification used for dissemination and incitement as offences punishable by law. Contextual factors that should be taken into account are the content and form of hate speech, the economic, social and political climate, the position or status of the speaker and the reach and objectives of the speech;**

(h) **Recognizes the importance of good practices, including legislation and initiatives taken at the national and regional level, in addressing the issue of online hate speech, and in that connection acknowledges the policy of the European Union on combating online hate speech, such as the code of conduct on countering illegal online hate speech signed by Facebook, Twitter, YouTube and Microsoft, as a way to involve IT companies and social media providers in the fight against hate speech;**

(i) **Recognizes the need to promote the use of new information and communication technologies, including the Internet, to contribute to the fight against racism, racial discrimination, xenophobia and related intolerance, as new technologies can assist the promotion of tolerance and respect for human dignity, and the principles of equality, non-discrimination and democracy;**

(j) **Recognizes that a solid legal framework should be combined with combating the root causes of racist hate speech, including stereotypes and prejudices;**

(k) **Acknowledges the importance of educational activities at all levels as a way of combating the root causes of hate speech and the necessity of using counter-speech as a mechanism to combat hate crime.**

Recommendations

98. **The Working Group recommends that Member States:**

(a) **Effectively implement legal sanctions, in accordance with relevant international law, to combat racist and xenophobic hate speech that incites violence or hatred;**

(b) **Ensure that racist and xenophobic hate speech that incites violence or hatred is a criminal offence, which should be brought before an independent court or tribunal;**

(c) **Include measures against racist and xenophobic hate speech in their national human rights plans and programmes, including their national action plans against racism, racial discrimination, xenophobia and related intolerance;**

(d) **Adopt immediate and effective measures, such as public awareness-raising and education programmes, with a view to combating prejudices which lead to hate speech, promoting understanding, tolerance and dialogue among nations and racial, ethnic, religious and other minority groups, and promoting human rights;**

(e) **Engage with IT companies and social media providers to establish and disseminate specific codes of conduct and measures against the dissemination of messages that incite racism, racial discrimination, xenophobia and related intolerance, and consider setting up mechanisms at the national and international levels, involving relevant civil society organizations to assess and monitor the implementation of such measures;**

(f) **Seize the opportunity of international forums, including the Permanent Forum on Indigenous Issues, the Forum on Minority Issues, and the forum for people of African descent, once it is operational, to engage in discussions on ways to effectively address hate speech and to eliminate derogatory language and negative stereotypes;**

(g) **Collect reliable and comparable data on hate speech and hate crime, taking into account their compound nature, for an accurate analysis of trends and for evidence-based policymaking to prevent such phenomena. Data collection should not only be limited to the lodging of complaints from victims of hate speech, but should also provide for perceptions of victims and their experiences, in particular of those who are hesitant to file a complaint.**

H. Migrants and refugees: protection against racism, racial discrimination, xenophobia and related intolerance

Conclusions

99. **The Working Group:**

(a) **Acknowledges that migration occurs on a cross-regional, as well as intraregional basis;**

(b) **Acknowledges the positive economic, social and cultural contributions made by migrants to countries of both origin and destination;**

(c) **Acknowledges that migrants and refugees can be the victims of multiple and intersecting forms of discrimination, especially racism, racial discrimination, xenophobia and related intolerance, and encourages international organizations, academic institutions, Member States and civil society to carry out further studies in that regard;**

(d) **Acknowledges that rising violence against migrants, refugees and asylum seekers poses a serious threat to social cohesion and is often linked to racism, racial discrimination, xenophobia and related intolerance;**

(e) **Acknowledges that xenophobia about non-nationals, particularly migrants, refugees and asylum seekers, constitutes one of the main sources of contemporary racism, and that human rights violations against members of such groups occur widely in the context of discriminatory, xenophobic and racist practices;**

(f) **Acknowledges that certain media, by promoting false images and negative stereotypes of vulnerable individuals or groups of individuals, particularly migrants and refugees, have contributed to the spread of xenophobic and racist sentiments among the public and in some cases have encouraged violence by racist individuals and groups;**

(g) **Acknowledges that migrants, refugees and asylum seekers are entitled to human rights and fundamental freedoms in accordance with international human rights law and relevant international instruments;**

(h) **Reaffirms that Member States are under an obligation to protect fully and effectively the human rights of all migrants, regardless of their migration status, consistent with their obligations under international law;**

(i) **Further reaffirms that States should protect migrants and refugees from all forms of discrimination, exploitation and violence, regardless of their race, colour,**

sex, language, religion, political or other opinion, national or social origin, property, birth or other status, their motives for seeking to cross international borders, or the circumstances in which they have travelled or are found. States should ensure that they protect migrants from multiple and intersecting forms of discrimination throughout their migration.

Recommendations

100. **The Working Group recommends that Member States:**

(a) **Manage large movements of refugees and migrants in a humane, sensitive, compassionate and people-centred manner, acknowledging a shared responsibility in that respect;**

(b) **Consider acceding to or ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;**

(c) **That States parties to International Labour Organization and United Nations conventions, including the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, implement their obligations in that regard;**

(d) **Repeal or amend all laws or measures that may give rise to discrimination against migrants, including direct and indirect discrimination based on multiple grounds;**

(e) **Provide specific and tailored protection to vulnerable groups of refugees and migrants in vulnerable situations, in particular minors, and put in place institutional frameworks and laws that effectively protect women and children migrants;**

(f) **Condemn and take effective measures to counter all acts, manifestations and expressions of racism, racial discrimination, xenophobia and related intolerance against migrants and refugees, and the negative or derogatory stereotypes that incite hatred of and violence against them, including through accessible complaint mechanisms, holding perpetrators accountable and ensuring effective remedies;**

(g) **Promote education on the human rights of migrants and engage in information campaigns to ensure that the public receives accurate information regarding migrants and migration issues, including the positive contribution of migrants to the host society and the vulnerability of migrants, particularly those who are in an irregular situation;**

(h) **Design and implement awareness-raising campaigns and activities on migration aimed at preventing and eliminating negative perceptions of migrants, with particular emphasis on the promotion of intercultural dialogue and the values of solidarity, respect, tolerance and multiculturalism;**

(i) **Implement specific measures involving the host community and migrants, in order to encourage respect for cultural diversity, promote the fair treatment of migrants and develop programmes, where appropriate, that facilitate their integration into social, cultural, political and economic life, including measures that address the specific needs and vulnerabilities of migrants, in particular with regard to access to justice, health, education, housing and employment, in accordance with their obligations under international law and their commitments under the Durban Declaration and Programme of Action;**

(j) **Create or strengthen independent institutions and mechanisms, including specialized national bodies such as national human rights institutions or ombudspersons, to monitor and report on discrimination against migrants. Such mechanisms that have relevant mandates should consider the intersection of migration with their areas of focus;**

(k) **Include in their national action plans against racism provisions for the protection of migrants in cooperation with employers, trade unions and civil society, and ensure their implementation;**

(l) **Engage with employers, trade unions, politicians, religious leaders and civil society to take action to address racism, racial discrimination, xenophobia and related intolerance in relation to migrants.**

101. **The Working Group recommends that:**

(a) **OHCHR, in coordination with relevant international organizations, collect good practices on addressing racism, racial discrimination, xenophobia and related intolerance within the context of migration, and broadly disseminate them;**

(b) **ILO, IOM, OHCHR, the United Nations Development Programme, UNESCO, the Office of the United Nations High Commissioner for Refugees, the United Nations Children's Fund, the United Nations Entity for Gender Equality and the Empowerment of Women and all other relevant international, regional, interregional and subregional organizations take further action regarding racism, racial discrimination, xenophobia and related intolerance linked to migration, in accordance with their mandates;**

(c) **Member States and media organizations be encouraged to promulgate positive images of migrants and refugees.**

Annex I

List of attendance

Member States

Algeria, Argentina, Belgium, Bolivia (Plurinational State of), Botswana, Brazil, Burundi, China, Colombia, Congo, Cuba, Czechia, Dominican Republic, Finland, France, Greece, Guatemala, Haiti, Iran (Islamic Republic of), Italy, Japan, Kenya, Kuwait, Latvia, Libya, Luxembourg, Malaysia, Mexico, Morocco, Namibia, Pakistan, Panama, Peru, Portugal, Qatar, Russian Federation, Rwanda, Sierra Leone, Slovakia, South Africa, Syrian Arab Republic, Tajikistan, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela (Bolivarian Republic of), Zimbabwe

Non-Member States represented by observers

Holy See, State of Palestine

Intergovernmental organizations

African Union

European Union

Organization of Islamic Cooperation

Non-governmental organizations in consultative status with the Economic and Social Council

Commission africaine des promoteurs de la santé et des droits de l'homme

Arab Commission for Human Rights

Baha'i International Community

International Youth and Student Movement for the United Nations

Rencontre africaine pour la défense des droits de l'homme

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Agenda item 10
Technical assistance and capacity-building

Report of the Independent Expert on the situation of human rights in Mali

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Independent Expert on the situation of human rights in Mali, Suliman Baldo, which covers the period from 1 April to 30 November 2017. The report is based on the information made available to the Independent Expert during his ninth visit to Mali, from 27 November to 1 December 2017, by the Government of Mali, the United Nations Multidimensional Integrated Stabilization Mission in Mali and other sources, including civil society organizations.

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Report of the Independent Expert on the situation of human rights in Mali

Contents

		Page
I.	Introduction	3
II.	General situation in the country	3
	A. The political situation	3
	B. The security situation	4
	C. The ongoing challenge of the fight against impunity	6
III.	The human rights situation	8
	A. Civil and political rights	8
	B. Intercommunal and intracommunal conflicts	11
	C. The situation of women	12
	D. The situation of children	13
	E. The prison situation	14
	F. Refugees and internally displaced persons	14
	G. Economic, social and cultural rights	14
IV.	Conclusions and recommendations	15
	A. Conclusions	15
	B. Recommendations	16

I. Introduction

1. The present report is submitted in accordance with Human Rights Council resolution 34/39, adopted on 24 March 2017, in which the Council renewed the mandate of the Independent Expert on the situation of human rights in Mali for one year with a view to assisting the Government of Mali in its efforts to promote and protect human rights and requested him to submit a report to the Council at its thirty-seventh session.

2. In the present report, which covers the period from 1 April to 30 November 2017, the Independent Expert on the situation of human rights in Mali, Suliman Baldo, gives an account of his ninth visit to Mali, from 27 November to 1 December 2017. The report is based on information collected from government authorities, United Nations bodies operating in the country, national and international organizations dealing with humanitarian issues and human rights, as well as on the testimonies of associations and families of victims of serious violations of human rights and international humanitarian law.

3. The Independent Expert wishes to thank the Government of Mali for facilitating his stay in the country and granting him access to all the national and local officials that he asked to meet. During his ninth visit, as with the previous visits, the Independent Expert met with high-ranking officials, including the Minister of Justice, Keeper of the Seals, the Minister of Human Rights and State Reform.

4. The Independent Expert also met the members of the Truth, Justice and Reconciliation Commission and the Chairperson of the National Human Rights Commission.

5. The Independent Expert held talks with representatives of civil society, associations of victims in northern Mali and a youth association, as well as with representatives of the Platform and the Coordination des mouvements de l'Azawad (CMA), the diplomatic corps and United Nations bodies.

6. The Independent Expert wishes to thank Mahamat Annadif, Special Representative of the Secretary-General for Mali and Head of the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA), and the staff of the Human Rights and Protection Division of MINUSMA. The technical and logistical support from the United Nations system in Mali was essential for facilitating and ensuring the success of the Independent Expert's ninth visit.

II. General situation in the country

A. The political situation

7. The Independent Expert notes that, more than two years after the signing of the Agreement on Peace and Reconciliation in Mali, very little progress had been made in implementing it owing to a lack of trust and consultation between the signatories. He also notes that the ambassadors of the 15 members of the Security Council and those of other G5 countries travelled to Mali in October 2017 and expressed their deep concern about the continued delays in the implementation of the Agreement's central provisions. They even stated that, if no new momentum was created, there was a real risk that the progress achieved hitherto would be lost.

8. On 5 September 2017, the Security Council unanimously adopted resolution 2374 establishing a regime of targeted sanctions in respect of Mali and imposing a travel ban and an asset freeze on individuals and entities involved in actions or policies that threaten the peace, security and stability of the country. However, the Independent Expert notes that the effectiveness of the sanctions regime largely depends on the collaboration of other countries, especially those neighbouring Mali, in the event that a travel ban and/or asset freeze must be enforced.

9. The Independent Expert notes that, on 26 November, the day before his most recent visit to Mali, the Council of Ministers decided to postpone the local and regional elections, initially scheduled for 17 December 2017, to April 2018. Several leaders of the opposition had voiced concern about the security situation with regard to the holding of elections. The Government of Mali justified its decision by the need to hold inclusive, calm and peaceful elections and to respond to the concerns of all actors in the electoral process.

10. The referendum on the bill amending the Constitution, initially planned for 9 July 2017, was postponed. The Independent Expert notes that the purpose of amending the Constitution of 1992, which would be the first amendment in 25 years, was to implement some of the commitments undertaken in the Agreement on Peace and Reconciliation in Mali of May/June 2015. However, thousands of people, including several opposition leaders, among whom were former Prime Ministers and trade unionists, reportedly demonstrated against the amendment.

B. The security situation

11. The Independent Expert notes that the state of emergency in Mali, in force almost continuously since the terrorist attack against a luxury hotel in Bamako in November 2015, was extended for a year on 31 October 2017. According to the Malian authorities, the decision was motivated by the ongoing terrorist threat in the centre of the country, which could spread further afield. The Independent Expert is concerned by the recurring, asymmetric terrorist attacks against the Malian defence and security forces, as well as other State officials and international forces.

12. The Independent Expert notes that, on 27 November, the day of his arrival in Mali, 4 peacekeepers and a Malian soldier were killed in two attacks that also injured some 20 others. The first attack happened in Ménaka Region, in the country's north-west, and caused the death of three peacekeepers and one Malian soldier; 16 other peacekeepers and a civilian employee of MINUSMA were injured. The second attack, this time against a MINUSMA convoy north of Douentza (centre), cost the life of a peacekeeper and seriously injured three others. On 8 October 2017, two unidentified armed persons shot dead a 21-year-old forest guide and a 30-year-old employee of the Ministry of Agriculture in Ségou Region. On 6 November 2017, a bus was blown up by a mine near Ansongo in northern Mali, killing at least four civilians, including a young girl, and injuring several others. The passengers had been travelling to a weekly market in Ansongo.

13. Since the start of 2016, the steady spread of insecurity and violence in the central regions has made the multidimensional nature of the Malian crisis even more complex. The growing penetration and influence of violent extremist groups in certain regions of the country, in the absence of the Malian authorities, raise many concerns about the State's real capacity to retake control of these areas and protect the population. In certain towns, persistent insecurity has prevented the deployment of public servants and forced out humanitarian actors, families and the political and judicial authorities.

14. The Independent Expert notes that at least 439 security incidents were recorded in Mopti and Ségou Regions between January and August 2017, in other words between 50 and 60 incidents per month. The main threats include: attacks using improvised explosive devices against the Malian defence and security forces and MINUSMA; kidnapping; radical sermons and the imposition of sharia law; retaliation by means of physical assault; and targeted assassinations. These incidents have left at least 209 people dead, of whom 141 were civilians, and injured 126 others, including 52 civilians.

15. On 15 July, a dozen armed extremists stormed the village of Sambaolo in Mopti *cercle* and told the village chief to assemble the inhabitants in the mosque. For an hour they preached radical Islam, including the strict application of sharia law to women, and stated that they would attack all symbols of State authority, such as individuals in uniform and persons who worked for or with the Government. In addition, they threatened anyone who might try to report them with reprisals. The Independent Expert was informed that these armed groups have established so-called courts in the region of Dyaloubé, where sharia-based decisions are taken in disputes regarding debt, access to land and intercommunal

conflict. On 2 October, some 20 unidentified armed individuals arrived by boat and raided a village, destroying a number of radio and television sets belonging to civilians. They then warned the population not to listen to music, adding that anyone caught infringing this or any other of their instructions (issued based on their interpretation of sharia law) would be severely punished.

16. The security situation in the city of Kidal and in most of Kidal Region is characterized by widespread organized crime. In the city of Kidal alone, over 20 instances of aggravated theft have been reported since the beginning of October 2017. In most cases, employees of humanitarian organizations and dozens of civilians, including MINUSMA employees, have been targeted. Some have lost possessions, such as motorcycles, telephones and cash. These acts are unique in that they are committed in broad daylight.

17. The Independent Expert was shocked by the rise in attacks against humanitarian actors and the impact of this rise on the population. For example, on 21 October 2017, at around 3 a.m., three unidentified armed individuals unlawfully entered the home of nine staff members of humanitarian organizations, including the International Rescue Committee and Médecins du Monde, and stole six mobile telephones. The assailants reportedly tied the hands of one of the residents and forced him to lead them to the rooms of the other residents. After assembling all the residents, the assailants threatened to kill them, saying that they had not killed any staff members in the course of other burglaries at the International Rescue Committee but warning them that any act of resistance could provoke the use of fatal force. This incident was the fourth armed robbery at the International Rescue Committee since August 2017. On 18 October 2017, the International Committee of the Red Cross announced that it would significantly scale back its activities in Kidal as of 20 October 2017 because of insecurity in the region. The announcement was made a few days following an attempted home invasion and armed robbery at one of its residences in Kidal on 16 October 2017, the latest in a string of attacks targeting humanitarian organizations, members of MINUSMA and civilians. The International Committee of the Red Cross specified that the scale-back would not have an impact on the support provided to the surgical centres of the referral hospital.

18. The Independent Expert was informed that, on 15 July, a civilian transport vehicle was attacked by four unidentified armed men on two motorcycles in Ménaka-Ti-n-Dermine. The assailants shot and injured a passenger while others were stripped of their possessions, including cash and laptop computers. The victims notified the gendarmerie in Ménaka but no investigation has been opened.

19. The Independent Expert was informed that the arrests, especially those in Douentza *cercle* (Mopti), appeared to target members of the Fulani community suspected of having ties with armed or terrorist groups. Throughout May 2017, the national authorities arrested at least 112 individuals, including 108 men, 2 women and 2 boys, for terrorism-related activities in the area of Mopti. The Human Rights and Protection Division of MINUSMA has been able to determine the ethnic origin of 106 of those arrested: 100 were Fulani, 2 were foreign nationals and 4 were Songhai. Most of the Fulani detainees indicated that the Fulani are singled out during operations conducted by the Malian authorities. It should be noted that the defence and security forces themselves play a considerable role in the destabilization of the region and the radicalization of the local population, given that the population has lost faith in the forces owing to the human rights violations they allegedly commit during their operations and to the impunity they enjoy in cases processed by the national authorities.

20. The lack of local administrative and security authorities in most regions weakens the rule of law and heightens the population's vulnerability to all forms of violence. Isolated areas serve as hide-outs for armed groups, creating conditions conducive to all kinds of abuse and human rights violations. The Independent Expert is concerned about the fate of civilians living in places entirely occupied and controlled by armed groups.

21. The Independent Expert is pleased that the former South-African hostage Stephen McGown was released at the end of July after being held for six years by Al-Qaida and stresses that some 15 hostages, including Malians and foreign nationals, remain in the hands of armed groups.

C. The ongoing challenge of the fight against impunity

22. The 18 August 2017 sentencing of Aliou Mahamane Touré, the former self-proclaimed superintendent of the Islamic police of Gao from 2012 to 2013, by the assize court of Bamako was a major step forward in the fight against impunity. Mr. Touré was also wanted for war crimes but that charge was dismissed by the court. In addition, on 27 September 2016, the International Criminal Court convicted Ahmad Al Mahdi Al Faqi, a member of the Islamic police of Timbuktu in 2012, of destroying nine mausoleums and one mosque in Timbuktu Region. On 17 August 2017, the Court also found him liable for €2.7 million in damages. The Independent Expert welcomes the fact that, by awarding individual, collective and symbolic reparations to the community of Timbuktu, the International Criminal Court recognized that the destruction of protected buildings causes suffering to people throughout Mali, as well as the international community.

23. However, no significant progress has been observed on a judicial level since the signing of the Agreement on Peace and Reconciliation in Mali, in which the Government had committed to ending impunity. Most perpetrators of abuses and violations of human rights and international humanitarian law go unpunished. The main reasons for the ongoing impunity include: insecurity in the centre and north of the country, the lack of a system to protect judges, the justice system's insufficient human and logistical resources, the lack of training for justice officials and the high cost of judicial proceedings for litigants.

24. Furthermore, the lack of functioning courts in the northern regions slows the pace of investigations and proceedings. The Supreme Court even ordered in two decisions dated July 2012 and January 2013 that the courts in the areas affected by the armed conflict be shut down in favour of the Court of First Instance of Commune III of Bamako. However, in February 2015, another Supreme Court decision restored the geographic jurisdiction of the northern courts, even though they were not yet operational. The extremely volatile security situation has not, to this day, made possible the return of judges to the northern regions. For this reason, a number of cases of human rights violations and serious abuses are still pending before the Court of First Instance of Commune III of Bamako despite the fact that it no longer has jurisdiction to continue the investigation.

25. As a result of the rising insecurity, the two district judges with expanded jurisdiction of Ténenkou and Youwarou were moved and reassigned to the appeals court of Sévaré. In effect, this prevented the plaintiffs from these areas from accessing justice and slowed down investigations and proceedings. The judges in Djenné, Douentza and Koro might also be transferred to Sévaré for the same reasons. MINUSMA has helped set up a committee within the criminal justice system to address challenges in access to justice. Generally speaking, the judicial system continues to be perceived as biased, thus creating distrust among the population.

26. The complaint and application for criminal damages brought by the Malian Human Rights Association and the International Federation for Human Rights Leagues on 12 November 2014, on behalf of 80 women victims of rape and other forms of sexual violence, is stalled. These offences were committed during the occupation of northern Mali by separatist and terrorist armed rebel groups in 2012 and 2013. The Independent Expert heard that the lack of cooperation on the part of the authorities, as well as problems accessing the areas and persons concerned, were at the root of the stagnation. Similarly, the complaint and application for criminal damages that the two organizations filed on 6 March 2015 on behalf of 33 victims of international crimes during the occupation of Timbuktu and environs by armed groups in 2012 and 2013 is not moving forward. The complaint targets 15 alleged perpetrators of crimes against humanity and war crimes. The Independent Expert welcomes the fact that some of the plaintiffs have been heard by the investigating judge, but regrets that the investigation has been inactive for over six months. He was informed that the investigation is currently suspended owing to a lack of political and judicial will.

27. The Independent Expert welcomes the decision by MINUSMA to support a coalition of six victim associations and three regional coordination groups offering legal, psychological and social assistance to 115 victims of sexual violence in Mopti, Gao and Timbuktu Regions.

28. The Independent Expert notes that the National Human Rights Commission, which also acts as the national torture prevention mechanism, has a strong mandate in terms of the protection and promotion of human rights, including the possibility of processing individual complaints. New commissioners were appointed and took up their functions in May 2017. The Independent Expert welcomes the fact that the Human Rights and Protection Division of MINUSMA provided technical support to the National Human Rights Commission through a capacity-building workshop held from 17 to 19 October 2017. The workshop was an opportunity to identify strategic priorities and led to the preparation of the Commission's internal working documents, in particular its strategic plan, the rules governing the complaint mechanism and a guide on visits to places of detention and deprivation of liberty.

29. The Independent Expert was informed that, since the beginning of the counter-terrorism military operations, some suspects have been transferred to Bamako without their cases being referred to the public prosecution service. As a consequence, some cases fall out of the service's purview. Moreover, patrols under these military operations are carried out without the involvement of the gendarmerie's military police units, which are responsible for criminal investigations. This situation leads to arbitrary arrest and unlawful detention.

30. The Independent Expert welcomes the progress made in the operationalization of the Truth, Justice and Reconciliation Commission. The Commission started its operational phase in January 2017 by collecting statements; it had gathered over 6,000 by November 2017. The matter of whether to extend the Commission's mandate will have to be addressed so that it can proceed with the investigations and public hearings. While the Independent Expert acknowledges that a media campaign on the Commission's mandate was undertaken as part of efforts to widen its reach through five regional offices, he encourages the Commission to put in place a more robust communications policy. He also encourages the Commission to take the appropriate steps to ensure the protection of victims and witnesses in the light of its mandate and of the activities that it will have to conduct. In addition, an effective computer management system should be set up to make it easier to categorize the violations committed by the various parties and prepare the final report.

31. The Secretary-General's decision in October 2017 to set up an International Commission of Inquiry, as provided for in article 46 of the Agreement on Peace and Reconciliation in Mali, was a welcome development. The International Commission of Inquiry, which will have three members, will be tasked with investigating allegations of abuse and serious violations of international human rights law and international humanitarian law, including allegations of sexual violence during the conflict, committed across Mali between 1 January 2012 and the date of the establishment of the International Commission of Inquiry. It will submit a report one year after the effective start of its activities and will support the efforts of the Malian authorities to combat impunity.

32. The Independent Expert welcomes the commitment by the Ministry of Defence of Mali, following the allegations recorded by human rights organizations, to open an investigation into the serious abuse reportedly committed by the security forces during operations in central Mali. In addition, the Independent Expert learned that the Ministry of Defence has committed to taking several other important steps to prevent the security forces involved in the operations from further infringing human rights. These steps include: formally instructing troop commanders to hand over any person detained during military operations to the gendarmerie's military police units for investigation purposes; formally instructing the gendarmerie's military police units to produce a monthly report on any human rights violations; and pursuing human rights training and awareness-raising among the armed forces.

33. The Independent Expert notes that the prosecutor from the International Criminal Court made a two-day visit to Mali. During her stay from 17 to 19 October 2017, Fatou Bensouda met all the military chiefs to discuss the cases of violence against civilians recorded by human rights organizations. She reaffirmed that investigations into other offences, in particular sexual and other gender-based offences, were ongoing.

III. The human rights situation

A. Civil and political rights

34. The Independent Expert notes with satisfaction the commitment of Mali to respecting human rights. Mali has ratified nine core international human rights instruments and six optional protocols. He welcomes the adoption by Mali of a national policy on transitional justice, a national human rights policy and a national gender policy, as well as the rebuilding of the National Human Rights Commission. The establishment of a new ministry for human rights in April 2017 constitutes yet another important step towards improving the human rights situation in the country.

35. However, the human rights situation in the central and northern parts of the country is still marred by widespread abuse and serious violations of human rights committed by a multitude of actors. The state of emergency in Mali, which had been in effect almost continuously since the deadly attack on the Radisson Blu hotel in Bamako in November 2015, was extended for another year as of 31 October 2017.

1. Human rights violations committed by the Malian armed forces

36. Several human rights reports (including a recent report by Human Rights Watch on human rights violations committed during the operations of the Malian armed forces in the commune of Mondoro between May and June 2017) refer to serious violations of international human rights law and international humanitarian law, including summary executions committed during counter-terrorism operations by members of the armed forces of the country's sixth military district. The Malian armed forces stand accused of summarily executing at least 13 individuals, who were found in four mass graves located in the central part of the country.

37. The counter-terrorism operations conducted by the Malian defence and security forces in this region have led to summary executions, enforced disappearances, torture, ill-treatment and arbitrary arrests. The majority of the victims belonged to the Fulani community. The Human Rights and Protection Division of MINUSMA has verified the alleged summary execution of 13 individuals, the majority of whom belonged to the Fulani community, by the Malian defence and security forces in Douentza *cercle* between December 2016 and October 2017.

38. During the counter-terrorism operations conducted by the Malian armed forces in May and June 2017, at least 43 people were subjected to enforced disappearance, and at least 30 people were tortured (10 of whom were subjected to a mock execution) or ill-treated. The Human Rights and Protection Division of MINUSMA has been able to determine the ethnic origin of 106 of the 112 persons questioned during the five waves of arrests that followed, 100 of whom (94 per cent) were Fulani.

39. The Independent Expert is particularly concerned about an incident that took place on 2 May 2017 where members of the Malian armed forces reportedly arrested and detained 17 persons belonging to the Fulani community, including 2 women, during an operation in Mopti Region. Four of the suspects reportedly died while they were being transferred from Mopti to Sévaré. This case raises concerns over other suspects who have died in the custody of the Malian armed forces.

40. The Independent Expert was informed of possible cases of excessive use of force by the Malian security forces. He was also informed of the death of a lorry driver and of the condition of three other civilians who were injured during a police operation in Bamako Region. On 15 April 2017, a Malian police officer allegedly assaulted a lorry driver at a checkpoint. Civilian bystanders then retaliated by attacking the police officer. As the police officer was running away, the crowd redirected the attack towards the police station located in the thirteenth district in Bamako. The tear gas and live ammunition used by the security forces to disperse the crowd reportedly claimed other victims. The Independent Expert was also informed of the case of two men who were killed by a gendarme in Mopti Region on the night of 30/31 March 2017. Although the gendarmerie launched its own investigation

into the shooting, the Independent Expert would like an independent investigation to be opened to ensure the transparency and impartiality of the investigation process.

41. The Independent Expert received information relating to an operation led by international forces on the night of 20 July, during which members of the forces reportedly arrested more than five people in and around the city of Timbuktu. According to some sources, members of the forces reportedly took them to an unknown location. However, the Independent Expert was informed that four of them had reportedly been released the same day, while the fifth person had reportedly been placed on board a helicopter belonging to the Barkhane forces and taken to an unknown location.

2. Human rights violations committed by armed groups

42. The interpretation given to sharia law by preachers and extremist groups in almost all the *cercles* of Mopti Region calls into question practices considered quite normal by some Muslims, especially practices specific to Mali. For example, recently a marabout was murdered in the commune of Mondoro for having encouraged his Qur'anic students to beg for rice. In other cases, women have been whipped for having sung or for having celebrated their marriage in the traditional manner (with music and in mixed company). On 1 September 2017, during Eid al-Adha, also known as Tabaski, violent extremists raided several villages to enforce their prohibition on celebrating the holiday. This situation prompted several members of the community to rise up against these individuals, creating a cycle of violence and retaliation.

43. The Independent Expert was also informed of problems related to the exercise of freedom of conscience and religion that affect both the Christian and Muslim communities. In the first week of October 2017, armed extremists in the central Region of Mopti, threatened Christian communities in two villages and burned down three churches. On 19 September, an unknown number of unidentified armed individuals (suspected to belong to a radical group) raided another village in the region, looting the local church before burning it down. They also reportedly threatened members of the Christian community, warning them to cease practising their faith, and reportedly ordered all residents not to smoke or consume alcohol. On 6 October 2017, six violent extremists ransacked and burned down a Catholic and a Protestant church in a village located in Douna Pen, also in Mopti Region. The Independent Expert notes that the Christian community had already received threats from armed radical individuals in the region. The church in Didja (or Bija), located in another commune of Mopti Region, has remained closed since 25 April 2017 after these individuals raided the village and threatened the church leaders. These acts constitute serious violations of freedom of conscience and religion.

44. The two armed groups that are signatories to the Agreement on Peace and Reconciliation in Mali continue to recruit and use children.

45. The Independent Expert is concerned by reports that members of armed groups violated the human rights of civilians while purporting to maintain security. On 18 April, members of the Mouvement pour le salut de l'Azawad reportedly executed a 30-year-old shopkeeper who was a member of the Songhai community in Ménaka Region. Members of the Mouvement pour le salut de l'Azawad-Platforme allegedly shot the victim in front of his house during a joint patrol for having broken the curfew imposed by armed groups in the city. These individuals have been conducting joint patrols for the purpose of securing the city since 17 April. On 18 October, the International Committee of the Red Cross announced that it would significantly scale back its activities in Kidal as of 20 October following the decision to evacuate non-essential staff in the light of growing insecurity. It explained that the scale-back would not affect its support for the surgical centres attached to the commune's referral hospital (the only facilities of this kind within a 300 km radius).

46. On two occasions, between October and November 2016 and in May 2017, humanitarian organizations partnered with United Nations agencies were prevented from moving freely on the Anefis-Kidal road on account of the conflict between the Coordination des mouvements de l'Azawad and the Groupe d'autodéfense des Touaregs Imghad et leurs alliés.

47. The deployment of the G5 Sahel joint force, which was welcomed by the Security Council in resolution 2359 (2017), has the stated objective of combating terrorism and addressing the challenges posed by transnational crime in the Sahel region. Despite the G5 countries having signed a judicial cooperation agreement within the framework of the fight against terrorism on 9 May 2017 in Niamey, Niger, the personnel of the G5 Sahel joint force was not deployed in Sévaré, Mopti Region, until 9 September 2017. This agreement facilitates direct cooperation with prosecutors in the border areas between the G5 Sahel countries. In this way, the Public Prosecutor of Mopti can easily cooperate with his or her counterparts in Burkina Faso.

B. Intercommunal and intracommunal conflicts

48. The Independent Expert remains concerned by the conflicts between and within communities and by the human rights violations, which pose a clear threat to the peace process. Intercommunal conflicts regularly occur between the Fulani, on the one hand, and the Bambaras and the Dogon, on the other, in certain areas of Mopti Region. An extensive intercommunal conflict that took place between the Fulani and the Dogon in June and August 2017 in Koro *cercle* left at least 55 people dead, including 34 Fulani. Most of these (28 persons) died as a result of an indiscriminate attack by the Dogon hunters (Dozos) in retaliation for the murder of a famous Dozo in the region, which they attributed to "Fulani jihadists" in a letter published after the fact.

49. The Independent Expert was informed that, between September and October 2017, the armed groups that are signatories to the Agreement on Peace and Reconciliation in Mali organized intercommunal round tables in an effort to put an end to the violence and to find solutions to security and protection issues with a view to facilitating the Agreement's implementation.

C. The situation of women

50. The situation of women and girls in Mali remains worrying, especially for those living in the north and central parts of the country. Indeed, unidentified armed individuals are stepping up attacks against public transport on certain roads linking Gao and Ansongo, Ansongo and Ménaka, Gao and Gossi, as well as those leading to the Niger border. The working group on gender-based violence has called for the denunciation of these attacks on travellers, which, more often than not, result in the systematic rape of the women and girls who are unlucky enough to find themselves aboard these vehicles. MINUSMA has increased its number of weekly patrols in order to address this threat. However, a more regular patrol schedule remains difficult to put in place owing to the risk of mines and other explosive devices.

51. The participation of women in public and political life remains very low, despite the adoption and promulgation at the end of 2015 of Act No. 052, which introduced a gender quota of 30 per cent for elected and appointed offices. However, the Independent Expert was informed that all local and communal electoral lists complied with the 30 per cent quota, which will lead to an increase in the number of women represented in local decision-making mechanisms. This new momentum might help to improve the situation of women and girls in the country.

52. The Independent Expert observes that, in Mali, there is no legislation prohibiting female genital mutilation, such as excision and infibulation, procedures which have been performed in the country for generations. However, awareness-raising activities conducted by civil society organizations and United Nations specialized agencies, in partnership with the Ministry for the Advancement of Women, Children and the Family, have led more than 1,088 villages out of the 12,000 villages in Mali to abandon the practice.

53. The Independent Expert had noted that the Ministry for the Advancement of Women, Children and the Family, through the national programme to combat excision, had undertaken to develop a holistic national communication strategy on gender-based violence. The Independent Expert welcomes the drafting of a bill to prohibit gender-based violence

and encourages the Malian authorities to expedite its consideration with a view to its adoption. He was informed that the bill is currently before the Government for consideration and submission to Parliament for a vote.

D. The situation of children

54. Children are still direct and indirect victims of violence in Mali. The Independent Expert was informed that, on 4 October 2017, three children (a 13-year-old boy, a 9-year-old girl and an 8-year-old girl) were injured when a grenade exploded in Ménaka Region. The children were bringing their animals back from the pasture when the 13-year-old boy, mistaking the grenade for a toy, picked it up. The device exploded in his hand, causing the boy to lose four fingers on his right hand and injuring and grazing the legs and face of the two girls. All three children received medical attention at the referral hospital in Ménaka.

55. The Independent Expert was informed of a case involving three children, all five years of age, who were caught up in an explosion caused by an improvised explosive device in a village located in Sindégué Ouadiobe, approximately 50 km north of the town of Sévaré in Mopti *cercle*. The device exploded while the children were playing with it on 10 July. One of them died and the other two were injured as a result. The two injured children were transported to Mopti hospital for medical treatment. They were discharged from hospital on 11 July and returned to their village.

56. In June 2017, at the end of the 2016/17 school year, at least 500 schools had to be closed in central and northern Mali owing to insecurity and the influence of extremist groups, which are strongly opposed to formal education. At least 150,000 children are still out of school as a result.

57. The Independent Expert is very concerned about children and young people in street situations, a phenomenon which has been steadily growing in the country; the increase in the number of children and young people being cared for by community-based organizations in recent years is also worrying. This phenomenon concerns respect for all aspects of children's rights (education, health, food, safety, housing, etc.). Living on the streets, these children are victims of social exclusion and are exposed to substance abuse, physical and sexual violence, and psychological trauma on a daily basis. The causes are multiple and complex (economic, social, religious and legal). The factors contributing to the situation include inadequate infrastructure (reception and counselling centres, vocational training centres) and guidance, as well as a lack of direct support. The inadequate training and specialization of judges, court registrars, judicial police officers and other actors responsible for child protection hinders the realization of children's rights.

E. The prison situation

58. The Independent Expert is concerned about human rights violations committed during a violent demonstration in Kangaba prison on 1 April. He received allegations that the prison authorities had used excessive force to respond to the situation, which had resulted in the death of one man and in five others being injured by bullets or metal projectiles.

59. The Independent Expert welcomed the fact that, on 19 September, MINUSMA formally handed over responsibility for a quick-impact project for the protection of the rights of prisoners with disabilities at Bamako central prison to the Ministry of Justice of Mali at a ceremony organized by the Malian Federation of Persons with Disabilities, an implementing partner. The project, which is worth 14,610,500 CFA francs (approximately $26,500), comprises three essential features intended to significantly improve the protection of the rights of persons with disabilities being detained at the central prison: (a) the training of prison officers and administrators, (b) the construction of access ramps and (c) the provision of equipment (such as crutches and wheelchairs) to improve mobility and access, including to toilet facilities, while preserving the dignity of these persons.

F. Refugees and internally displaced persons

60. The context in which displacements occur in Mali remains complex and fluid. The Independent Expert continues to receive reports of displaced persons currently residing in the southern regions moving to the northern regions. As at 31 October 2017, 40,743 internally displaced persons (8,025 households) and 133,316 Malian refugees in neighbouring countries had been registered.

61. The Independent Expert was informed that some displaced persons went back and forth between their place of displacement and their place of origin. The Independent Expert continues to receive reports of new displacements. The reasons for these new displacements include intercommunal conflicts, insecurity, clashes and the prospect of a possible confrontation between armed groups.

G. Economic, social and cultural rights

62. The Independent Expert pays particular attention to these issues, as respect for these rights is essential for building the foundations of peace and security and, in this context, he welcomes the development of the road map for achieving the Sustainable Development Goals.

63. The Independent Expert would like to stress that this aspect should not be neglected and notes that there could well be an increase in military expenditure on account of the deteriorating security situation in the northern and central parts of the country, to the detriment of social programmes. In addition, funding for humanitarian assistance continues to be insufficient.

64. The Independent Expert notes that the majority of the population still lives below the poverty line and that the provision of basic services, particularly in the northern and central parts of the country, is very limited. The situation of people affected by severe food insecurity, especially children suffering from acute malnutrition, has deteriorated in the Timbuktu, Kidal and Mopti Regions during the period under review. In 2017, the national rate of acute malnutrition exceeded the emergency threshold set by the World Health Organization.

IV. Conclusions and recommendations

A. Conclusions

65. **The growing influence of extremist groups has contributed significantly to the rapid deterioration of the security situation in the country. Armed groups are gaining more and more ground in Mopti Region and are beginning to monitor various aspects of social and cultural life in the areas where they operate. As a result, the population is forced to follow the rules imposed by armed groups. The Independent Expert stresses that a multidimensional and coordinated response is needed in order to successfully prevent violent extremism and to de-radicalize young people. The national counter-terrorism strategy should include not only security arrangements but also seek to remove the conditions conducive to the spread of terrorism and to guarantee respect for human rights for all and for the rule of law in the fight against terrorism.**

66. **The absence or weakness of the judicial response of the State in these areas poses a real threat to the security and life of the population. The Independent Expert stresses that attacks against humanitarian actors may contravene customary international law and international humanitarian law.**

67. **The Independent Expert expresses his concern over the competence of cadi courts (traditional courts composed of religious leaders and customary judges), which now extends to criminal matters. In the Kidal and Ménaka Regions, decisions related to criminal law were handed down and implemented, creating a dangerous parallel**

justice system. The Independent Expert notes that this only underscores the pressing need to restore the authority of the State in Mali. In the absence of a formal judicial authority, justice is administered by the cadi courts, which are composed of religious leaders and customary judges.

68. In his report, the Independent Expert referred to a number of serious incidents in which humanitarian actors were targeted. It should also be recalled that attacks against humanitarian actors violate customary international law and international humanitarian law. These cowardly attacks affect the delivery of humanitarian assistance to vulnerable population groups.

69. The Independent Expert would like to emphasize the fundamental role of respect for human rights in the peace process and in the fight against terrorism in the Sahel, including in the deployment of the G5 Sahel joint force. The Independent Expert stresses that attacks against United Nations agencies and humanitarian actors, as well as obstructions to humanitarian activities, both of which amount to war crimes, must cease.

70. The Independent Expert commends civil society for its crucial role in drawing the attention of the international community to a range of issues, including impunity, and for its efforts to create a real citizen-led movement for holistic change in the country, particularly in the fight against the radicalization of young people and violent extremism.

B. Recommendations

71. The Independent Expert reiterates his previous recommendations and puts forward the recommendations set out below.

72. The Independent Expert recommends that the Malian authorities should:

(a) Improve the participation of women in the mechanisms of the peace process.

(b) Conduct prompt and impartial investigations into all cases of violations and abuses of human rights allegedly committed in their territory, including allegations against the Malian armed forces, and ensure that human rights conventions and the Rome Statute are included in training programmes for judges, lawyers and prosecutors.

(c) Undertake a legislative reform to extend, on a temporary basis, the competence of the judicial unit specializing in combating terrorism and transnational crime to include cases of grave violations and abuses of human rights and of international humanitarian law in areas where the security situation is not conducive to the redeployment of judicial services. Such a reform would resolve the conflict of jurisdiction between the Court of First Instance of Commune III and the courts in the northern regions while ensuring the more expeditious processing of cases of violations and abuses of human rights and international humanitarian law.

(d) Encourage the deployment of members of the gendarmerie, as a judicial police force, to work alongside the Malian armed forces to ensure that the rights of arrested persons are guaranteed and that their detention conditions are in conformity with international human rights principles.

(e) Provide the National Human Rights Commission with the necessary funds to enable it to become fully operational and to fulfil its role as the national torture prevention mechanism.

73. The Independent Expert recommends that armed groups should:

(a) Duly note the provisions of international human rights law and international humanitarian law on the rights of the child and, in particular, the involvement of children in armed conflict, which stipulate that armed groups should

not, under any circumstances, recruit or use in hostilities persons under the age of 18 years.

(b) Comply with the provisions of article 7 (5) of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, which directly concern armed groups. Under these provisions, armed groups are prohibited from forcibly recruiting persons, kidnapping, abduction or hostage-taking, engaging in sexual slavery and trafficking in persons, especially women and children.

74. The Independent Expert recommends that the international community should:

(a) Assist the Malian authorities in prosecuting the perpetrators and instigators of violence and violations of human rights and international humanitarian law, as a means of combating impunity.

(b) Take the measures necessary to ensure that the sanctions regime imposed by the Security Council on 5 September 2017 is effective and that the travel ban and assets freeze can be implemented, if required.

(c) Develop and fund projects to support the fight against the radicalization and recruitment of young people.